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10/008,394

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Robert G. Hummer JR.

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EXAMINER

HWANG, VICTOR KENNY

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/008,394

Applicant(s)

HUMMER, ROBERT G.

Examiner

Victor K. Hwang

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-23 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12 and 24 is/are rejected.
- 7) ☒ Claim(s) 9-11, 13-18, 21-23 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION*****Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because: reference character "160" has been used to designate both the up push button (Fig. 2) and one of the pulleys (Figs. 1-3 and 8); and reference character "188" has been used to designate both the apertures (Figs. 2, 8 and 9) and the latch assemblies (Figs. 4 and 6). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference character(s) mentioned in the description: "164" identifying a pushbutton; "64" identifying end of pin 62; and "88" identifying the intermediate portion of tubular member 82. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled

“Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because in Fig. 8, the reference character “188” on the right hand side of the drawing presumably should be changed to --189--; and in Fig. 9, the reference character “190” presumably should be changed to --189--. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

4. The disclosure is objected to because of the following informalities:
- in paragraph [0009], line 1, the term “write” seems to be out of place;
- in paragraph [0037], line 6, “132” presumable should be changed to --12—and “134” presumably should be changed to --14--;
- in paragraph [0058], lines 3 and 4, “140” presumably should be changed to --40--;
- and
- in paragraph [0060], line 7, “188” presumably should be changed to --184--
- Appropriate correction is required.

*Claim Objections*

5. Claims 16, 18, 21-23 and 25 are objected to because of the following informalities:
- in claim 16, the recitation “a rotative drive coupled to both screws for bi-directionally rotating both screws,” on lines 2-3 repeats limitations of claim 13 and presumably should be deleted;
- in claim 18, the recitation “rotative” on lines 3 and 4 presumably should be changed to --rotatable--, in order to be consistent with language used in claim 16 from which this claim depends;
- in claim 21, the limitations of the entire claim are found in claim 19 from which this claim depends, and presumably should be deleted and claim 22 would then depend from claim 20;

in claim 22, the recitation "the crossbar mounting portion" on line 2 presumably should be changed to --a crossbar mounting portion--, in order to correct a lack of antecedent basis;

in claim 23, the recitation "the crossbar mounting portion" on line 7 presumably should be changed to --a crossbar mounting portion--, in order to correct a lack of antecedent basis;  
and

in claim 25, the recitation "for/aft" on line 3 presumably should be changed to --fore/aft-- to correct a spelling error. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the crossbar mount" and "the crossbar mounting portion" in lines 3 and 5-7. There is insufficient antecedent basis for this limitation in the claim. Presumably, there is a crossbar and "the crossbar mount" and "the crossbar mounting portion" both refer to the plate 80 shown in the drawing figures.

Claim 6 recites the limitation "the crossbar mounting portion" and "the crossbar" in lines 1-2 and 3. There is insufficient antecedent basis for this limitation in the claim. Presumably, "the crossbar" refers to the horizontal crossbar 34 and "the crossbar mounting portion" refers to the plate 80, as shown in the drawing figures.

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***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by *Ammoscato et al.* (US Pat. 5,472,397). *Ammoscato et al.* discloses a weightlifting apparatus for supporting a dumbbell comprising first and second side frames 16; elevation adjustment means 32 carried on the first and second side frames; and at least one dumbbell support 30 coupled to the elevation adjustment means for supporting a dumbbell in a plurality of different elevations. The dumbbell support comprises an angularly adjustable, pivotal portion 38,42,44 adapted for receiving and supporting a dumbbell. The angularly adjustable, pivotal portion includes a dumbbell receiver 38. The receiver may be dimensioned to receive the bar 56 of a dumbbell or may be sized to receive the weight portion 58 of a dumbbell. The U-shaped support 52 facilitates grasping of the center of a dumbbell bar, and is considered to read upon the limitation of a notch formed in the dumbbell receiver.

8. Claims 1, 7, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by *Hayden* (US Pat. 5,924,964). *Hayden '964* discloses a weightlifting apparatus for supporting a dumbbell comprising first and second frames 31,32; elevation adjustment means 17,18 carried on the first and second side frames; and at least one dumbbell support 19,20 coupled to the elevation adjustment means for supporting a dumbbell in a plurality of different elevations. A horizontal crossbar 21 is engaged with the elevation adjustment means, the dumbbell supports 19,20 mounted on the crossbar. The dumbbell support comprises a crossbar mounting portion

11,12 for movably adjusting the dumbbell support along the crossbar 21. The dumbbell support comprises two dumbbell supports.

9. Claim 24 is rejected under 35 U.S.C. 102(b) as being anticipated by *Hayden* (US Pat. 5,772,561). *Hayden* '561 discloses a weightlifting apparatus for supporting a dumbbell comprising first and second side frames 15,16; a crossbar 20 extending horizontally between the first and second side frames; elevation adjustment means 18 carried on the first and second side frames and coupled to the crossbar for moving and supporting the crossbar in a plurality of different elevations; at least one dumbbell support 21 coupled to the crossbar 20 for supporting a dumbbell; and a foot rest 24 disposed within the first and second side frames. The support 24 is fully capable of being a footrest and in many instances of exercise, functions as a footrest.

***Allowable Subject Matter***

10. Claims 19-23 are allowed over the prior art of record.

11. Claims 9-11, 13-18 and 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



12. Claims 5 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose a weightlifting apparatus comprising first and second side frames with a horizontal crossbar extending between the side frames and a pair of dumbbell supports movably mounted on the crossbar and releasably latched thereto by a latch on each dumbbell support (claims 19-22); an angularly adjustable, pivotal portion coupled to the crossbar mounting portion and lockable in one of a plurality of angular positions (claims 5, 23); the dumbbell support having an angularly adjustable, pivotal portion and the crossbar mounting portion comprises a collar mountable over the crossbar (claim 6); the means for latching the crossbar mounting portion to the crossbar, the crossbar engaged with the elevation adjustment means (claims 9-11); the elevation adjustment means (claims 13-18); and the footrest having vertical and fore/aft adjustable positioning of the foot support member (claim 25).

### *Conclusion*

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Cruz* (US Pat. 4,773,642), *Barrett* (US Pat. 4,799,672), *Slawinski et al.* (US Pat. 6,293,892 B1), *Valentino* (US Pat. 6,436,016 B1), *Greenland* (US Pat. Pub. 2003/0134723

A1) and *Judge* (GB 2,076,299 A) discloses exercise apparatus comprising various features applicable for supporting dumbbells in various positions.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (703) 308-2865. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time. The facsimile number for submitting papers directly to the examiner for informal correspondence is (703) 746-4891. The facsimile number for submitting all formal correspondence is (703) 872-9306.

Any Inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3700 receptionist at (703) 308-0858.

**NICHOLAS D. LUCCHESI**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**



Victor K. Hwang  
June 15, 2004